

BEFORE THE  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

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POSTAL RATE AND FEE CHANGES, 2001

Docket No. R2001-1

OPPOSITION OF UNITED STATES POSTAL SERVICE  
TO POPKIN MOTION TO COMPEL RESPONSES TO  
INTERROGATORIES DBP/USPS-139 AND 140  
(January 25, 2002)

The United States Postal Service hereby opposes David B. Popkin's Motion to Compel Response to Interrogatories DBP/USPS-140 and 139, filed January 17, 2002. The sound bases for the Postal Service's objections to these interrogatories were provided at the time of objection, and Mr. Popkin's recent Motion to Compel adds little that would overcome those objections. A summary of the issues follows:

Interrogatory 139

Interrogatory DBP/USPS-139, filed on January 4, 2002, is objectionable on the grounds that it is untimely and is not proper follow-up. The interrogatory states:

DBP/USPS-139 Please refer to your response to DBP/USPS-92. [a] With respect to the unzoned Priority Mail rates that presently exist for weights up to 5 pounds, [1] have these rates been popular since they were established? [2] to what extent do competitors offer a similar unzoned rate structure? [3] to what extent do these unzoned rates provide simplicity, as well as convenience to the Postal Service? [4] to what extent do these unzoned rates provide simplicity, as well as convenience to the user? [5] to what extent do these unzoned rates help the Postal Service's position in the market? [b] Do your answers to subpart a apply equally to weights between 1 and 5 pounds as they do to weights up to 5 pounds? If not, explain any difference.

The prior interrogatory sequence which interrogatory 139 purports to follow-up consists of:

DBP/USPS-92 Please refer to your response to DBP/USPS-74 subpart c. My interrogatory asked for the reasons [and the level of significance of each] why Express Mail rates were changed from a zoned rate system to an unzoned rate system. Which particular lines on page 588 of Docket R84-1 provide the response to this specific question?

RESPONSE: See paragraph [5659].

Mr. Popkin now claims that “the obvious reason” for the long-ago question 74, pertaining to *Express Mail*, was to provide a foundation for the questions he now poses regarding Priority Mail rezoning, that question 92 was posed in pursuit of needed clarification, and that he is now at last ready to begin investigating Priority Mail rezoning. Motion to Compel at 1.

There are several reasons why Mr. Popkin should not be allowed to reopen fundamental issues regarding Priority Mail rezoning at this late stage of the proceeding. First, the questions posed in the subparts of Interrogatory 139 are very basic questions regarding the rezoning issue which could easily have been posed at the outset of this case rather than after the discovery period has been closed. In his testimony, Postal Service witness Scherer covers the reasons why rezoning Priority Mail makes sense in current circumstances, and Mr. Popkin had ample opportunity earlier in the case to follow-up on this issue. There is absolutely no reason why Mr. Popkin had to await a more specific citation to a particular discussion of Express Mail in a past case to launch this inquiry. Second, if Mr. Popkin’s rationale is that he needed specific verbiage from past cases to trigger his investigative mechanisms, it should be noted that the Commission’s thinking regarding this and other ratemaking issues are and have been readily available to the public in the Commission’s published decisions. Mr. Popkin had at his disposal long ago the Commission’s views on Express Mail zoning issues, and

could have formulated questions based on that material at the outset of this proceeding. Furthermore, weeks ago, in the response to Interrogatory 74, the Postal Service directed him to the specific page of a past Commission Decision dealing with Express Mail rezoning issues. Mr. Popkin should not be allowed to prolong the discovery period simply because he refuses to read and understand what has been laid out before him. The Commission should cut short Mr. Popkin's belated attempt to reopen a panoply of Priority Mail zoning issues that could have been investigated promptly and in due course. The simple phrase "See paragraph [5659]," in response to a question regarding a class of mail other than Priority Mail, is simply too weak a basis upon which to launch such an investigation at this stage.

Interrogatory 140

DBP/USPS-140 provides:

Please refer to your response to DBPIUSPS-102. [a] Please confirm, or explain if you are not able to do so, that, in general, the costs to the transportation carrier will increase based on the distance the article is transported. [b] Please provide any reasons why you believe that FedEx's costs do not increase with the greater distance the article is transported. [c] Please confirm, or explain if you are not able to do so, that the rates that FedEx and the Postal Service arrived at are based on FedEx's belief that a certain profile of distances that articles are transported will exist. [d] Please confirm, or explain if you are not able to do so, that the rates that FedEx and the Postal Service will arrive at in the future will be based on FedEx's evaluation of the profile of distances articles are transported and will increase if there is an increase in the profile.

The Postal Service objected on grounds of relevance. In his motion to compel, Mr. Popkin has confirmed that the questions are, indeed, irrelevant. As Mr. Popkin explains:

This interrogatory is attempting to obtain information regarding the costs for transporting Priority Mail and that the costs for transportation are

somewhat distance related *even though the Postal Service may not be paying for them that way*. Transporting mail through the FedEx hub at Memphis does add to the cost of transporting the mail because of the added distances involved [although the overall costs hopefully are less because of the efficiencies of the entire system].

Motion to Compel at 1 (emphasis added.) Mr. Popkin thus has acknowledged that his question is not directed at costs incurred by the Postal Service, but at costs incurred solely by FedEx. It is plain that costs incurred by FedEx and not incurred by the Postal Service have no bearing on this proceeding, and are a not a proper subject for discovery in this case.

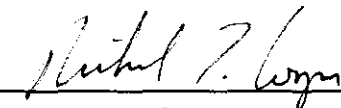
Mr. Popkin has not shown that his interrogatories are proper, timely and relevant. Furthermore, the circumstances of this case, in which the proposed settlement makes it unlikely that further discovery regarding Priority Mail transportation costs and rezoning will contribute to the outcome, justify a ruling curtailing further discovery by Mr. Popkin. The Motion should be denied.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

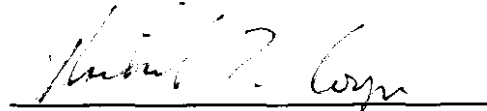
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January 25, 2002

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

A handwritten signature in black ink, appearing to read "Richard T. Cooper", is written over a horizontal line.

Richard T. Cooper

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